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April 12, 2013

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Via Electronic Filing

Re: CC Docket No. 99-200, *Vonage's Petition for Limited Waiver*; WC Docket No. 04-36, *IP-Enabled Services*; GN Docket No. 12-353, *TDM-to-IP Transition*; GN Docket No. 13-5, *Technology Transitions Policy Task Force*

Dear Ms. Dortch,

Today, Friday, April 12, 2013, Derek Turner and I spoke by telephone with Michael Steffen, Legal Advisor to Chairman Genachowski, regarding matters in the above-captioned dockets. This presentation made during the Sunshine period was “requested by” Mr. Steffen “for the clarification or adduction of evidence, or for resolution of issues” in this proceeding. *See* 47 C.F.R. § 1.1204(a)(10)(iv). The presentation is thus exempt from the Sunshine period prohibition pursuant to Section 1.1203(a)(1) of the Commission’s rules. *See id.* § 1.1203(a)(1). We file this notice today in accordance with 47 C.F.R. § 1.1206(b)(2)(v).

We discussed a letter filed April 11 by Free Press and several other groups in CC Docket No. 99-200. In that letter, Free Press joined AARP, Common Cause, Consumer Federation of America, Consumers Union, Public Knowledge, National Consumer Law Center (on behalf of its low-income clients), the National Association of State Utility Consumer Advocates, and the National Association of Regulatory Utility Commissioners. Together we questioned the reported decision to grant Vonage a waiver for direct access to numbering resources prior to the conclusion – or even initiation – of a notice and comment rulemaking on the same topic.

During today’s call, we explained our objections to conducting the trial first. To the extent it allegedly would inform the NPRM process by providing empirical data on the practice proposed, it makes no sense to seek comment on the topic prior to the conclusion of the trial.

Even more important than such sequencing flaws are the considerations that counsel against the unwise approach of grant first, ask questions later. Making policy by waiver has time and again proven the wrong method, whatever safeguards the outgoing Chairman may have in mind as he bids farewell and bequeaths this matter to his successor. Too often, today’s experiment or temporary waiver becomes tomorrow’s foregone conclusion. Grants of special permission are difficult if not impossible for future Commissions to claw back from the beneficiaries, regardless of what subsequent, more reasoned analysis may dictate to the contrary.

For these reasons, we emphasized that the Commission can and should answer the policy questions first, prior to conducting any technical trial. The issues here implicate the so-called IP transition as well as Vonage's request, and grant of the latter could ruin any chance for an orderly process in the former. By ceding so much control over the various rights it gives to telecommunications carriers, the Commission would do consumers a great disservice. Such a precedent would readily permit providers to choose "non-carrier" status, shedding their public interest obligations without any loss in the benefits they enjoy as regulated entities. There should be no rush to judgment in the above-captioned proceedings, nor any rush to reach such a result.

Please do not hesitate to contact me should you have any questions regarding this notice.

Respectfully submitted,

/s/ Matthew F. Wood

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cc: Michael Steffen